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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/240,563

01/29/1999

DAVID J. BOOTHBY

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03/25/2008

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT

PAPER NUMBER

2165

MAIL DATE

DELIVERY MODE

03/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/240,563

**Applicant(s)**

BOOTHBY, DAVID J.

**Examiner**

Neveen Abel-Jalil

**Art Unit**

2165

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 2/21/08 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 22-31.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Neeven Abel-Jalil/  
Primary Examiner, Art Unit 2165

The arguments were similar to the ones presented in the Final which addressed them in full, but will briefly be covered below.

Applicant's arguments filed on February 21, 2008 have been fully considered but they are not persuasive.

Applicant's argument on bottom of page 3 and top of page 4 that "the combination of Shaheen and Everson does not teach or suggest updating records of the status file to reflect the contents of the data records in the first and second databases after the disparate databases have been updated" is respectfully noted but not found to be persuasive.

Assigning version numbers to replica cycles clearly suggests that status updates are sent back to the centralized server and as such are logged and maintained and incremented sequentially in the next update cycle. Any updates occurring at the individual clients (local DBs) are shared with all other members of the group and as such each individual client is updated in a round robin fashion subsequently updating the merged log for the next cycle.

Applicant's statement that the Final OA does not conform to MPEP 707.07 since the Examiner has not responded to all the arguments set forth in the Amendment filed on 11/2/07 is respectfully noted. The arguments presented on page 4 of the amendment appeared to have been directed to the single limitation of "updating a single status file after both records of first and second database were updated" (i.e. after synchronization). The argument was addressed on page 8 (second response).

Applicant's argument on page 5 that "No where in Shaheen alone or in combination with Everson (and the Examiner cites none) is there any mention, teaching, or suggestion relating to the data records of first and second databases (i.e. both first and second databases) being without unique identification codes" is respectfully acknowledged but not found to be persuasive.

The OA points to Shaken et al. column 7, lines 26-35 to broadly interpret the limitations. As stated by the Applicant's remarks filed on 12/2/07 page 3 lines 12-14, and page 5, what is being assigned the unique identifier is the whole log file not the individual records themselves; thus no different from the argued limitation.

The Final OA had made references to Applicant's disclosure in an effort to be ascertain the novelty behind the broad language of the claims without any feedback from the Applicant. The rejection is maintained.

Claim 23 contains similar feature and fall under analogous arguments and responses.

Applicant's request on page 6 for the Examiner to indicate what database of the combination is being relied upon as the claimed first database and to specifically point out where the combination mentions that the unique identifications codes of the relied upon database are used to identify the data records of the merged log as required by claim 25, is duly noted.

However, while Applicant's request is respectfully noted, the Applicant is reminded that they are responsible for the entire references and to also take the secondary teachings in to consideration when reviewing the OA. It is sincerely maintained that the OA has adequately provided citations in both the rejections section and the response to Amendment section.